

48A C.J.S. Judges § 209

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VII. Compensation and Fees

C. Payment

§ 209. Who is liable; from what fund payable

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(3)

In order for a state or a subdivision thereof to be chargeable with the compensation of a judge, provision therefor must be made by law, and generally, judges who are state officers are paid from the revenues of the state although within constitutional limits liability for the compensation of some judges may be imposed on a county or city.

In order for the State or a subdivision thereof to be chargeable with the compensation of a judge, provision therefor must be made by law.¹ The salaries of judges who are considered state officers are paid from the revenues of the State.² However, if the judge is considered a county officer, the legislature may impose liability on the county.³ Within their constitutional limitations, and subject to constitutional inhibitions against the appropriation of county funds for other than county purposes,⁴ the legislature may generally make the salary of certain judges payable out of the county funds⁵ or payable partly out of the state treasury and partly out of the funds of the counties in which they preside.⁶

Under some statutes, the payment of the salary of a county judge is not limited to the special fund created by the collection of fees.⁷ However, under some constitutional provisions, county judges can be paid only out of fees actually collected.⁸ Where there is no appropriation balance against which a warrant for a judge's salary can be drawn, the warrant can be drawn only against an unappropriated balance and not against any fund or account which has been appropriated for some other purpose.⁹ The salary of a city judge ordinarily is payable out of the treasury of the city,¹⁰ and statutes so providing are valid.¹¹ Within constitutional limits, provision may be made for payment out of special funds.¹²

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Footnotes

- 1 Ala.—*Pruett v. Delony*, 289 Ala. 578, 269 So. 2d 109 (1972).
- 2 Fla.—*In re Opinion of the Justices*, 145 Fla. 375, 199 So. 350 (1940).
Judges as state, county, city, or municipal officers, see § 15.
- 3 Wash.—*In re Salary of Superior Court Judges*, 82 Wash. 623, 144 P. 929 (1914).
- 4 Fla.—*State ex rel. Simmons v. Lee*, 119 Fla. 745, 160 So. 886 (1935).
- 5 Fla.—*Greene v. Gray*, 87 So. 2d 504 (Fla. 1956).
Wis.—*State ex rel. Sullivan v. Boos*, 23 Wis. 2d 98, 126 N.W.2d 579 (1964).
- 6 Fla.—*State ex rel. Simmons v. Lee*, 119 Fla. 745, 160 So. 886 (1935).
Ky.—*Wright v. Oates*, 314 S.W.2d 952 (Ky. 1958).
- 7 Ala.—*Hasty v. Marengo County Bank*, 204 Ala. 229, 86 So. 37 (1920).
- 8 Colo.—*In re Compensation of County Judges*, 18 Colo. 272, 32 P. 549 (1893).
Fla.—*Green v. Taylor*, 70 So. 2d 502 (Fla. 1954).
- 9 Ind.—*Finerty v. State ex rel. Greenwald*, 215 Ind. 346, 19 N.E.2d 846 (1939).
- 10 N.Y.—*McGarey v. State*, 276 A.D. 793, 92 N.Y.S.2d 742 (3d Dep't 1949).
Ohio—*State ex rel. Cleveland Municipal Court v. Cleveland City Council*, 34 Ohio St. 2d 120, 63 Ohio Op. 2d 199, 296 N.E.2d 544 (1973).
- 11 Va.—*Holladay v. Auditor of Public Accounts*, 77 Va. 425, 1883 WL 5406 (1883).
- 12 Ala.—*State v. Smith*, 31 Ala. App. 533, 19 So. 2d 546 (1944).

La.—*State ex rel. Pickrel v. Tugwell*, 199 La. 185, 5 So. 2d 544 (1941).

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